

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

ELBERT L. HATCHETT, et al.,

Plaintiffs,

Case No. 94-74708

v.

HONORABLE DENISE PAGE HOOD

UNITED STATES OF AMERICA,

Defendant.

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ORDER ACCEPTING REPORT AND RECOMMENDATION

This matter is before the Court on Magistrate Judge Donald A. Scheer's Report and Recommendation dated June 10, 2005.

Magistrate Judge Donald A. Scheer concluded that the Plaintiff's Motion for Partial Judgment on the Pleadings should be denied. Plaintiffs filed Objections to the Report and Recommendation regarding their Motion for Partial Summary Judgment on the Pleadings on June 20, 2005.

The Magistrate Judge's Report and Recommendation addressed four separate issues advanced in Plaintiffs' Motion for Partial Judgment on the Pleadings. They are: (1) Plaintiffs' principal residence is not subject to levy under 26 U.S.C. § 6334; (2) Defendant's lien tracing theory is without legal support and fails to state a valid claim; (3) Defendant's fraudulent enhancement theory fails to state a valid claim; and (4) Defendant may not levy on the entireties property itself, but only upon Plaintiff Elbert Hatchett's interest in the entireties property.

At a Status Conference held on March 7, 2006 at 3:45 P.M., Counsel for Plaintiffs and Defendant conceded that issues (1) and (4) are moot. Therefore, this Court finds that issues (1) and

(2) are moot.

The standard of review to be employed by the Court when examining a Report and Recommendation is set forth in 28 U.S.C. § 636. This Court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C). This Court “may accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate.” Id.

After careful review and consideration, the Court finds that the Magistrate Judge reached the correct conclusion for the proper reasons, with respect to whether issues two and three.

Accordingly,

IT IS ORDERED that the Report and Recommendation of Magistrate Judge Donald A. Scheer [**Docket No. 129, filed June 10, 2005**], is ACCEPTED and ADOPTED this Court’s findings and conclusions of law with respect to issues two and three.

IT IS FURTHER ORDERED that the following issues: (1) Whether Plaintiffs’ principal residence is not subject to levy under 26 U.S.C. § 6334; and (4) Whether Defendant may not levy on the entireties property itself, but only upon Plaintiff Elbert Hatchett’s interest in the entireties property in Plaintiffs’ Motion for Partial Judgment on the Pleadings, [**Docket No. 123, filed March 14, 2005**], are MOOT.

IT IS FURTHER ORDERED that a Status Conference is set for April 10, 2006 at 3:00 P.M.

IT IS FURTHER ORDERED that the Final Pre-Trial Conference is set for May 30, 2006 at 3:00 P.M.

IT IS FURTHER ORDERED that Trial is set for June 12, 2006 at 9:00 A.M.

IT IS FURTHER ORDERED that Trial Briefs are due on June 8, 2006 by 5:00 P.M.

IT IS FURTHER ORDERED that Proposed Findings of Fact and Conclusions of Law are due on June 30, 2006 by 5:00 P.M.

s/ DENISE PAGE HOOD
DENISE PAGE HOOD
United States District Judge

DATED: March 27, 2006

I hereby certify that a copy of the foregoing document was served upon counsel of record on March 27, 2006, by electronic and/or ordinary mail.

s/William F. Lewis
Case Manager